

SEIDEN | LAW

The Honorable Katherine Polk Failla
United States District Court
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 2103
New York, NY 10007

MEMO ENDORSED

May 2, 2023

Re: *Huzhou Chuangtai Rongyuan Inv. Mgm't P'ship et al. v. Qin*, No. 1:21-cv-9221-KPF

Dear Judge Failla,

We write on behalf of Respondent Hui Qin ("Mr. Qin") to request leave to file certain documents with redaction and certain documents under seal, pursuant Rules 9(B) and 9(C) of Your Honor's Individual Rules of Practice in Civil Cases ("Individual Rules").

In connection with Qin's letter requesting a conference with the Court to discuss a dispute relating to Mr. Qin's medical condition that has affected the continuation of his Court-ordered deposition, Mr. Qin respectfully requests to file the following documents under seal: (1) Mr. Qin's physician's letter dated April 27, 2023, and (2) Mr. Qin's physician's letter dated May 1, 2023.

Pursuant to Rule 9 of Your Honor's Individual Rules, Qin needs to demonstrate the purpose of redactions or filing under seal must be consistent with the presumption in favor of public access of judicial documents. The Second Circuit has long established that "[t]here is a common law presumption in favor of permitting public access of judicial function and useful in the judicial process." *Lugosch v. Pyramid Co. of Onondaga*, 453 F. 3d 110 (2d. Cir. 2006). A court may balance this common law presumption of access against competing comparisons, including the "privacy interests of these resisting disclosure." *Id.*, at 120. The court recognizes that defendant and third-party's "privacy interests [] outweigh the presumption of the public access." See *PharmacyChecker.com LLC v. Nat'l Ass'n of Boards of Pharmacy*, No. 19-civ-07577-KMK, 2022 WL 4956050 (S.D.N.Y. Aug. 26, 2022).

Here, the letters from Mr. Qin's physician contain sensitive information, such as Mr. Qin's date of birth, medical conditions, and his physician's diagnosis. Qin's interest in protecting his confidential and privacy information outweighs the common law presumption of access.

Therefore, Mr. Qin respectfully request that the Court grant his application to file Exhibit 1 and 2 to his letter requesting a conference with the Court under seal.

Respectfully submitted,

/s/Amiad Kushner

Amiad Kushner

The Court is in receipt of Respondent's letter requesting a conference to discuss his request to adjourn his May 3, 2023 deposition (Dkt. #142, 143), Respondent's above request to file exhibits to that letter under seal, and Petitioners' response (Dkt. #144).

The Court held a conference to discuss Respondent's request at 7:45 p.m. on May 2, 2023. For the reasons stated at that conference, Respondent is ORDERED to appear for a deposition of up to four hours on **May 3, 2023**. Respondent may take a 15 minute break after every 45 minutes of questioning as his health requires.

Respondent's request to file his letter under seal is GRANTED. The Clerk of Court is directed to maintain docket entry 143 under seal, viewable only to the parties and the Court.

The Clerk of Court is additionally directed to terminate the motions at docket entries 141, 142, 143.

Dated: May 3, 2023
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE